

Court of Appeals, State of Michigan

ORDER

Octavia Winfield v Joseph Winfield

Docket No. 299181

LC No. 91-101718-DM

Christopher M. Murray
Presiding Judge

Michael J. Talbot

Karen M. Fort Hood
Judges

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the June 30, 2009, order of the Wayne Circuit Court hereby is VACATED IN PART to the extent that it assessed a \$4,000 award of attorney fees for defendant to pay to plaintiff. The record before this Court does not support an award of attorney fees to plaintiff where a factual dispute exists regarding whether defendant received any monies pursuant to the 1991 qualified domestic relation order (QDRO) relating to plaintiff's employment and her subsequent retirement. The circuit court is directed to hold an evidentiary hearing on this issue without first assessing attorney fees. If the court finds that plaintiff's retirement fund was not divided in accordance with the parties' QDROs, then the court is to issue a dispositional ruling regarding a fair and equitable distribution of defendant's pension funds in light of the facts presented. The case is REMANDED to the circuit court for further proceedings consistent with this order.

In all other respects, the delayed application for leave to appeal is DENIED.

This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 27 2011

Date

Sandra Schultz Mengel
Chief Clerk